IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NO.29681 of 1998

Between:

G.S.S. Pattabhiramaiah
M/s Padmasri Picture Palace, Bhimavaram, West Godavari District.

..... PETITIONER

AND

1 Government of A.P., Rep. by its principal Secretary, Home

Department, Secretariat Building, Hyderabad.
2 The Joint Collector,
Eluru. West Godavari District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to pass orders or issue directions more in the nature of a writ of Mandamus declaring the actions of the Respondents in issuing Memo No. 1822/Genl.A2/95-1 dated 19.12.1995 and the inaction of the second Respondent in not amending the B form licence as void, illegal and violative of Article 14 of the Constitution of India, the A.P. Cinematograph Act, The A.P. Cinemas (Regulation) Act, 1955 and the A.P. Cinemas (Regulation) Rules, 1970 and consequently set aside the same and direct the second Respondent to make the necessary amendments in the B form license of the Petitioner as requested by the Petitioner in his representation dated 7.10.1998 within a period of two weeks.

Counsel for the Petitioner: MR.R.RAGHUNANDAN (Not present)

Counsel for the Respondents: GP FOR HOME

The Court made the following:

ORDER:

This writ petition is filed seeking to declare the action of the respondents in issuing Memo No.1822/Genl.A.2/95-1, dated 10.12.1995 and the inaction of the 2nd respondent-Joint Collector in not amending the B form licence of the petitioner as void and illegal and violative of Article 14 of the Constitution of India, the A.P. Cinematograph Act, the A.P. Cinemas (Regulation) Act, the A.P. Cinemas (Regulation) Act, 1955 and the A.P. Cinemas (Regulation) Rules, 1970.

When the matter is taken up for hearing, none appears for the petitioner. Learned Government Pleader for Home appearing for the respondents submits that the subject matter of this writ petition is squarely covered by the judgment of this Court in **Nataraj Theatre v. Govt. of Andhra Pradesh**[1] (Writ Petition Nos.21691 of 1995 and 30691 of 1998, dated 26.08.1999), wherein this Court considered similar issue and disposed of the same with the following directions:

1. The impugned Memo No.1730/Genl.A1/94-3 dated 23-5-1995 is declared as *ultra vires*, without power or jurisdiction and the same is set aside.

2. Consequential orders passed by the Licensing Authority, if any, are vitiated as the Licensing Authority abdicated its statutory functions and acted as per the dictates of the Government, and they accordingly are set aside.

3. If the petitioner has already been accorded permission for reducing seating capacity either by the Government or by the Licensing Authority, the same shall not be rescinded. However, if the order is passed by the Government pursuant to the interim orders of this Court, a formal order by the Licensing Authority is a must to save the order of the Government from the vice of being void order.

4. The petitioner is permitted to make application to the Licensing Authority seeking reduction of seating capacity, if not already made before or during the pendency of the writ petition. Such application shall be considered in accordance with law and keeping in view the observations in this judgment. For the purpose of direction No.3 above the application made by the petitioner, if any, shall be considered.

5. If any licensee has reduced seating capacity in anticipation of sanction by the

Licensing Authority, the Licensing Authority may inspect the theatre and give further directions as may be appropriate to avoid abuse or misuse of reduced seating capacity. This direction is in accordance with the judgment of the Division Bench of this Court in WP No.9640 of 1984 dated 30-10-1984.

6. The licensee shall not be entitled to enhance the rates of admission which has been already sanctioned by the Government vide G.O. Ms. No.218 dated 14-7-1995 and any further enhancement by the licensee will be in accordance with further sanction by the competent authority.

7. It is further directed that the Licensing Authority has to consider any application filed at any time seeking reduction of seating capacity subject to the provisions of Rule 10A without any restriction as to cut off date. And

8. There shall be no order as to costs.

In the circumstances, this writ petition is also disposed of in terms of the judgment of this Court in W.P.Nos.21691 of 1995 and 30691 of 1998, dated 26.08.1999. No costs.

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N.V. RAMANA, J.

Date: 22.02.2005

Nsr

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The principal Secretary, Home

Department, Government of A.P., Secretariat Building, Hyderabad.
2 The Joint Collector,
Eluru. West Godavari District.

3 Two CCs to GP for Home, High Court Buildings, Hyderabad (OUT)

4 2 CD copies

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